

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

JACQUELINE ELIZABETH ARD
TERRY FRANK NICOLA

CASE NO: 24-03611-JD

(CHAPTER 13)

**OBJECTION TO:
MOTION TO REOPEN DISMISSED CASE**

Debtors

Please take notice that the trustee objects to the MOTION TO REOPEN DISMISSED CASE for the following reason(s):

The case was filed by Voluntary Petition on October 4, 2024. The Debtors were required to file all missing documents — statements, schedules and plan — within 14 days of the date of filing, or October 18, 2024. On October 18, 2024, Debtors requested an extension of time to file those documents (ECF No 22), which was granted by Order (ECF No 23) with a new deadline of November 1, 2024. That deadline was missed, but the Debtors filed a second motion to extend time on November 4, 2024 (ECF No 35), which was granted by Order (ECF No 36), with a new deadline of November 18, 2024.

Pursuant to 11 U.S.C. §521(i), the Debtors were required to file all of the documents required by 11 U.S.C. § 521(a)(1) within 45 days of the Petition Date - November 18, 2024 -- or the case would be automatically dismissed on the 46th day, November 19, 2024. Debtors did not all of the documents, nor the chapter 13 Plan, by that extended deadline. Debtors indicate that they attempted to contact the Trustee on November 18, 2024, to indicate that they were experiencing problems submitting schedules electronically , but the Trustee's office was unable to provide instructions for use of the Court's electronic filing system. The Debtors did file schedules A/B on November 19, 2024, after dismissal, but the schedules were unsigned, and the majority of schedules, statements and the Plan are still missing to date.

An Order dismissing the case was entered November 21, 2024 (ECF No 50). The debtors indicate in their Motion to Reopen that they will later file the documents that are due , but further indicate that "Any documents that I am not able to submit I will immediately request an Extension to File." (ECF No 56 at #15).

No Plan has been filed. The payments pursuant to the Plan should have commenced in November , but no funds have been received by the Trustee. Trustee is informed and believes that the Bankruptcy Code provides no discretion to the Court to extend the time after the deadline under §521 (i) has expired. Further, because the Plan has still not been filed and payments have not commenced, even if the Court had the discretion to do so, the Motion to Reconsider Dismissal should not be granted.

Trustee requests a hearing for the objection to be heard .

Dated: January 02, 2025

/s/ James M. Wyman

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CERTIFICATE OF SERVICE

I did this date serve the attached document(s) on the parties listed below by placing the same in the United States mail with proper postage affixed thereto and addressed as follows:

JACQUELINE ELIZABETH ARD
239 BEACH CITY RD
UNIT 3218
HILTON HEAD ISLAND, SC 29926

TERRY FRANK NICOLA
663 WILLIAM HILTON PKY
UNIT 4408
HILTON HEAD ISLAND, SC 29928

Dated: January 02, 2025

/s/ Kimberly Lamontagne

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